

the Bureau, in accordance with any requirement of such permit or this paragraph, knowing such representation to be false, or makes such representation in reckless disregard of the truth.

(b) The authorized officer in his discretion may elect to terminate any permit or right-of-way issued under this paragraph, if the permittee shall fail to comply with any of the provisions of such regulations or make defaults in the performance or obligation of any of the conditions of the permit, and such failure or default shall continue for 60 days after service of written notice thereof by the authorized officer.

(c) Notice of such termination shall be served personally or by registered mail upon the permittee, shall specify the misrepresentation, failure or default involved, and shall be final, subject, however, to the permittee's right of appeal.

(d) Termination of the permit and of the right-of-way under this section shall not operate to terminate any right granted to the United States pursuant to this paragraph, nor shall it affect the right of the permittee, after the termination of his permit and right-of-way to receive compensation and to establish road operating rules with respect to roads controlled by him which the United States has the right to use and to permit its licensees to use; nor shall it relieve the permittee of his duty under this paragraph, to submit to and be bound by arbitration pursuant to §§2812.4-1, 2812.4-3, and 2812.4-4.

#### **§2812.8-2 Remedies for violations by licensee.**

(a) No licensee of the United States will be authorized to use the roads of a permittee except under the terms of a timber sale contract or a cooperative agreement with the United States which will require the licensee to comply with all the applicable provisions of this paragraph, and any agreements or awards made pursuant thereto. If a licensee fails to comply with the regulations, agreements, or awards, the authorized officer will take such action as may be appropriate under the provisions of the timber sale contract or cooperative agreement.

(b) A permittee who believes that a licensee is violating the provisions of such a timber sale contract or cooperative agreement pertaining to use of the permittee's roads, rights-of-way, or lands, may petition the authorized officer, setting forth the grounds for his belief, to take such action against the licensee as may be appropriate under the contract or the cooperative agreement. In such event the permittee shall be bound by the decision of the authorized officer, subject, however, to a right of appeal pursuant to §2812.9 and subject, further, to the general provisions of law respecting review of administrative determinations. In the alternative, a permittee who believes that a licensee has violated the terms of the timber sale contract or cooperative agreement respecting the use of the permittee's roads may proceed against the licensee in any court of competent jurisdiction to obtain such relief as may be appropriate in the premises.

#### **§2812.8-3 Disposition of property on termination of permit.**

Upon the expiration or other termination of the permittee's rights, in the absence of an agreement to the contrary, the permittee will be allowed 6 months in which to remove or otherwise dispose of all property or improvements, other than the road and usable improvements to the road, placed by him on the right-of-way, but if not removed within this period, all such property and improvements shall become the property of the United States.

#### **§2812.9 Appeals.**

An appeal pursuant to part 4 of 43 CFR Subtitle A, may be taken from any final decision of the authorized officer, to the Board of Land Appeals, Office of the Secretary.

[41 FR 29123, July 15, 1976]

## **PART 2880—RIGHTS-OF-WAY UNDER THE MINERAL LEASING ACT**

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AUTHORITY: 30 U.S.C. 185 and 189.

SOURCE: 70 FR 21078, Apr. 22, 2005, unless otherwise noted.

### Subpart 2881—General Information

#### § 2881.2 What is the objective of BLM's right-of-way program?

It is BLM's objective to grant rights-of-way under the regulations in this part to any qualified individual, business, or government entity and to direct and control the use of rights-of-way on public lands in a manner that:

(a) Protects the natural resources associated with Federal lands and adjacent lands, whether private or administered by a government entity;

(b) Prevents unnecessary or undue degradation to public lands;

(c) Promotes the use of rights-of-way in common considering engineering and technological compatibility, national security, and land use plans; and

(d) Coordinates, to the fullest extent possible, all BLM actions under the regulations in this part with state and local governments, interested individuals, and appropriate quasi-public entities.

#### § 2881.5 What acronyms and terms are used in the regulations in this part?

(a) *Acronyms.* Unless an acronym is listed in this section, the acronyms

listed in part 2800 of this chapter apply to this part. As used in this part:

*MLA* means the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185).

*TAPS* means the Trans-Alaska Oil Pipeline System.

*TUP* means a temporary use permit.

(b) *Terms.* Unless a term is defined in this part, the defined terms in part 2800 of this chapter apply to this part. As used in this part, the term:

*Act* means section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185).

*Actual costs* means the financial measure of resources the Federal government expends or uses in processing a right-of-way application or in monitoring the construction, operation, and termination of a facility authorized by a grant or permit. Actual costs include both direct and indirect costs, exclusive of management overhead costs.

*Casual use* means activities ordinarily resulting in no or negligible disturbance of the public lands, resources, or improvements. Examples of casual use include: Surveying, marking routes, and collecting data to prepare applications for grants or TUPs.

*Facility* means an improvement or structure, whether existing or planned, that is, or would be, owned and controlled by the grant or TUP holder within the right-of-way or TUP area.

*Federal lands* means all lands owned by the United States, except lands:

(1) In the National Park System;

(2) Held in trust for an Indian or Indian tribe; or

(3) On the Outer Continental Shelf.

*Grant* means any authorization or instrument BLM issues under section 28 of the Mineral Leasing Act, 30 U.S.C. 185, authorizing a nonpossessory, non-exclusive right to use Federal lands to construct, operate, maintain, or terminate a pipeline. The term includes those authorizations and instruments BLM and its predecessors issued for like purposes before November 16, 1973, under then existing statutory authority. It does not include authorizations issued under FLPMA (43 U.S.C. 1761 *et seq.*).

*Monitoring* means those actions, subject to § 2886.11 of this part, that the Federal government performs to ensure